HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.1325 of 2006

Between:

Smt. M. Saraswathi

... Appellant

And

The District Collector,
Ranga Reddy District
at Lakdikapool, Hyderabad
and eight others

... Respondents

::JUDGMENT::

Counsel for the appellant : Shri R. Raghunandan

December 20, 2006

Per G.S. Singhvi, CJ

This appeal is directed against order dated 01-12-2006 passed by the learned Single Judge, whereby he dismissed the writ petition filed by the appellant for quashing memo dated 09-11-2006 issued by Special Deputy Collector, Land Acquisition (Industries), Hyderabad (respondent No. 3).

The appellant claims to be a member of the joint family which owned land in Survey Nos. 220 and 221 of Kapra Village, Keesara Mandal, Ranga Reddy District, which was acquired by the State Government in 1966 for establishing Nuclear Fuel Complex. The

possession of the land was taken over on 04-01-1967 and compensation was paid to the land owners. After 35 years, one of the share holders, namely M. Rami Reddy succeeded in manipulating the State apparatus which resulted in issue of G.O.Ms.No.375 dated 07-09-2002 under Section 4(1) of the Land Acquisition Act, 1894, whereby some land was released from acquisition. That decision of the Government generated lot of litigation. Shri Bhaskar Reddy filed Writ Petition No.24641 of 2005 for issue of a mandamus to the respondents to release the land measuring Ac.11.03 guntas comprised in Survey No.220 and Ac.8.31 guntas comprised in Survey No.221 (total land measuring Ac.19.34 guntas). The same was dismissed by the learned Single Judge vide his order dated 21-11-2005. The learned Single Judge relied on the judgments of this Court in **Koppula Narasaiah v. Government of Andhra Pradesh**[1] and of the Supreme Court in **Northern Indian Glass Industries v. Jaswant Singh**[2] and **Government of Andhra Pradesh v. Sued Akbar**[3] and held that the acquired land cannot be reconveyed to the owners merely because the same has not been utilized. For the sake of reference, the order passed by the learned Single Judge is reproduced below:

> " The petitioner claims that his family owned huge extent of land in S.Nos.220 and 221 admeasuring about Acs.20 in Kapra village. The land was acquired for Nuclear Fuel Complex (NFC) about four decades ago and petitioner received compensation for the land as enhanced by the Civil Court in a reference under Section 18 of the Land Acquisition Act, 1894 (for short, the Act). It appears, one Smt. Shyamala and sons occupied a part of the land belonging to NFC, which was not utilized by them. They also filed a suit for declaration of title. At that

stage, according to the petitioner, the Government compromised the matter and withdrew the notification acquiring the land, which was in possession of M.Shyamala and others by issuing orders in G.O.Ms.No.375, dt. 7-9-2002 and collected the marked value from M.Shyamala and others. Seeking similar relief the petitioner made a representation in February, 2003 and September, 2003. These applications were rejected. Assailing the same, the petitioner filed the present writ petition, in effect, seeking an order directing the respondents to re-convey the land acquired in 1967.

It has been repeatedly held by this Court and the Supreme Court that un-utilized land acquired under the proceedings of the Act cannot be re-conveyed to the owners. It is also well-settled that un-utilized land can be used for public purpose and in case the Government does not want to keep the land, the same has to be disposed of by conducting public auction {(See *Koppula Narasaiah v. Government of Andhra Pradesh (1 supra), Northern Indian Glass Industries v. Jaswant Singh (2 supra) and Government of Andhra Pradesh v. Syed Akbar (3 supra)*}

Following the same, the writ petition is dismissed as the petitioner has no right to seek Writ of Mandamus."

W.A.No.2335 of 2005 filed by Shri M.Bhaskar Reddy against the order of the learned Single Judge was dismissed by the Division Bench, of which, one of us (the Chief Justice) was a member, vide its order dated 29-11-2005. Undeterred by reversals at two stages of the legal proceedings, Shri M.Bhaskar Reddy approached the Supreme Court and filed petition for Special Leave to Appeal (Civil) No.1470 of 2006, which was dismissed on 27-01-2006.

Writ Petition No. 18864 of 2006 filed by Shri M. Basanth Reddy for release of his share of land was dismissed by the learned Single Judge on 05-09-2006 and Writ Appeal No. 954 of 2006 filed

by him was dismissed by the Division Bench. Petition for Special Leave to Appeal No. 20002 of 2006 filed by him was dismissed by the Supreme Court on 11-12-2006.

After dismissal of various writ petitions, the appellant filed an application for correction of revenue entries under G.O.Ms.No. 375 dated 07-09-2002. Special Deputy Collector, Land Acquisition (Industries), Hyderabad dismissed her application. Last three paragraphs of that order read as under:

> "Aggrieved with the said G.O.Ms.No. 375, dated 07.09.2002, the W.P. No. 17191 of 2006, was filed before the Hon'ble High Court of A.P. by way of Public Interest Litigation. In the said Writ Petition, the Division Bench of the Hon'ble High Court, confirmed the said G.O. As such the issuance of said G.O. can be treated to be issued under Article 298 of the Constitution of India. Mere quoting the Section 48 (1) in the said G.O. does not take away the powers of the Govt. for withdrawal of the lands in favour LRs of Ram Reddy i.e,: M. Shayamala and sons.
>
> Aggrieved by the above said G.O. petitioner's joint family members i,e: M. Umma Reddy and others made representations to the Government seeking to inure the benefit of G.O.Ms.375, to all four branches of original owners of joint family members, since all are entitled for the subject lands, as the said G.O, was issued under Section 48(1) of the Land Acquisition Act. But the Government in view of the peculiar facts and circumstances of the case, rejected the said request holding that in view of receiving the compensation petitioners have no right to claim the subject lands. The said rejection orders have been considered and up-held by the Hon'ble High Court in W.P. Nos. 24641/2005, 18864/2006 and W.A. Nos. 2335/2005, 954/2006. The Hon'ble Supreme Court of India in SLP No. 1470/2006.
>
> Therefore taking into consideration of the peculiar facts and circumstances of the case, except the LRs of Ram Reddy ie; M. Shyamala and her sons, other four branches of original owners of joint family members have no right to claim over the

subject lands. Exercising the powers under section 48(1) after vesting does not divest the title to the original owners as stated by the Hon'ble Supreme Court, in the judgments, in AIR SC 1970 P 1576 and AIR 1996 SC P 122, as such restoring the position prior to 4(1) notification does not arise. In various judgments reported in AIR 2000 SC 3313, AIR 1963 SC 1241, AIR 1988 SC 157 and ILR 1970 Cut. 1318 (DB), it was held that Article 298 of the Constitution extends the power of the State to take appropriate decision in the interest of public. As such the Government has power to issue the above said G.O. in favour of M. Shyamala and sons. Therefore the present petition deserves no consideration and hence rejected."

The writ petition filed by the appellant was dismissed by the learned Single Judge on the premise that similar writ petitions have already been dismissed.

We have heard Shri R. Raghunandan, learned counsel for the appellant. He fairly placed before the Court a chronology of the events leading to filing of Writ Petition No. 25091 of 2006 and also admitted that all the writ petitions and writ appeals filed by similarly situated persons seeking release of land which had been acquired vide notification dated 01-12-1966 have been dismissed by this Court and the special leave petitions filed against the orders of the Division Bench have been dismissed by the Supreme Court.

We appreciate the fairness exhibited by the learned counsel.

A perusal of the list of events produced by Shri Raghunandan shows that the following writ petitions and appeals preferred by various persons whose land had been acquired vide notification dated 01-12-1966 were dismissed by Single and Division Benches and Special Leave Petitions filed against the judgments of this Court were dismissed by the Supreme Court:

"1. Writ Petition No. 24641 of 2005.

2. Writ Appeal No. 2335 of 2005.
3. Special Leave Petition No.1470 of 2006.
4. Writ Petition No. 17191 of 2006.
5. Special Leave Petition No. 18556 of 2006.
6. Writ Petition No. 18864 of 2006.
7. Writ Appeal No. 954 of 2006.
8. Special Leave Petition No. 20002 of 2006.
9. Writ Petition No. 22310 of 2002.
10. Writ Petition No. 25091 of 2006."

In view of the above, we do not find any reason to take a different view and entertain the prayer made by the appellant.

In the result, the appeal is dismissed.

As a sequel to dismissal of the appeal, WAMP No.2815 of 2006 filed by the appellant for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

December 20, 2006
ks

---

[1] 2000(6) ALD 2999
[2] (2003) 1 SCC 335
[3] (2005)1 SCC 558